

Precedence of European law

According to the precedence principle, European law is superior to the national laws of Member States. The precedence principle applies to all European acts with a binding force. Therefore, Member States may not apply a national rule which contradicts to European law.

The precedence principle guarantees the superiority of European law over national laws. It is a fundamental principle of European law. As with the [direct effect principle](#), it is not inscribed in the Treaties, but has been enshrined by the Court of Justice of the European Union (CJEU).

Definition

The CJEU enshrined the precedence principle in the **Costa versus Enel case** of 15 July 1964. In this case, the Court declared that the laws issued by European institutions are to be integrated into the legal systems of Member States, who are obliged to comply with them. European law therefore has precedence over national laws. Therefore, if a national rule is contrary to a European provision, Member States' authorities must apply the European provision. National law is neither rescinded nor repealed, but its binding force is suspended.

The Court later clarified that the precedence of European law is to be applied to all national acts, whether they were adopted before or after the European act in question.

With European law becoming superior to national law, the principle of precedence therefore ensures that citizens are uniformly protected by a European law assured across all EU territories.

Scope of the principle

The precedence of European law over national laws is **absolute**. Therefore, it applies to all European acts with a binding force, whether emanating from [primary](#) or [secondary](#) legislation.

In addition, all national acts are subject to this principle, irrespective of their nature: acts, regulations, decisions, ordinances, circulars, etc), irrespective of whether they are issued by the executive or legislative powers of a Member State. The judiciary is also subject to the precedence principle. Member State case-law should also respect EU case-law.

The Court of Justice has ruled that national constitutions should also be subject to the precedence principle. It is therefore a matter for national judges not to apply the provisions of a constitution which contradict European law.

Responsibility for ensuring compliance with the principle

As for the [direct effect principle](#), the Court of Justice is responsible for ensuring the precedence principle is adhered to. Its rulings impose penalties on Member States who infringe it, on the basis of the various remedies provided for by the founding Treaties, notably proceedings for [failure to fulfil an obligation](#).

It is also the task of national judges to ensure the precedence principle is adhered to. Should there be any doubt regarding the implementation of this principle, judges may make use of the [reference for a preliminary ruling procedure](#). In its judgment of 19 June 1990 (Factortame), the Court of Justice indicated that national courts, as part of a preliminary ruling on the validity of a national law, must immediately suspend the application of this law until such time as the Court of Justice gives its recommended solution and the national court gives its ruling on the substance of the issue.

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